

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA
FILED for
Civil
OCT 30 2006
JOHN F. CORCORAN, CLERK
BY: H. McDonald
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

GAVIN RODERICK WHITE,

Defendant.

Criminal Case No. 3:97cr00028

ORDER

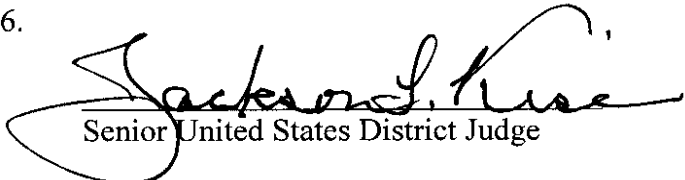
By: Hon. Jackson L. Kiser
Senior United States District Judge

This matter is before the court upon Whites's pro se Motion to Correct Sentence to Reflect Credit for Time Served, which I must deny for lack of jurisdiction. Title 18, § 3582(c) expressly states "[t]he court **may not** modify a term of imprisonment once it has been imposed except" upon a motion by the Bureau of Prisons or the government or other circumstances not present in White's case. (Emphasis added.) See also Fed. R. Crim. Pro. 35 (court can only correct or reduce sentence only within seven days from the entry of the judgment upon motion by the government or upon remand from the court of appeals). Furthermore, inasmuch as defendant's motion could be construed as a habeas petition pursuant to 28 U.S.C. §2255, such a petition would be premature because White is not being illegally detained at this time. That status would not occur until his 2010 release date comes to pass.

As I find no basis upon which I have jurisdiction to modify defendant's sentence at this time, it is hereby **ORDERED** that his motion for reduction of sentence shall be and hereby is **DENIED**.

The Clerk of the Court is directed to send certified copies of this order to petitioner and counsel of record for the respondent.

ENTER: This 30th day of October, 2006.


Senior United States District Judge